

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WILLIAM SCOTT DAVIS,

Plaintiff,

-against-

DR. AVA TAYLOR, PHD, *et al.*,

Defendants.

20-CV-4610 (LLS)

ORDER TO SHOW CAUSE UNDER  
28 U.S.C. § 1915(g)

LOUIS L. STANTON, United States District Judge:

Plaintiff, who is proceeding *pro se*, initially filed this action on June 15, 2020. As set forth below, the Court denies Plaintiff's pending motions and orders him to show cause why this action should not be dismissed under 28 U.S.C. § 1915(g).

**DISCUSSION**

**A. Pending Motions**

By order dated July 8, 2020, then-Chief Judge McMahon dismissed this action under 28 U.S.C. § 1915(g). (ECF 3.) After this dismissal, Plaintiff filed six motions and a notice of appeal. On January 4, 2021, Judge McMahon, having jurisdiction to consider three of the motions, granted the two motions for reconsideration (ECF 6-7) and vacated the order of dismissal and civil judgment (ECF 3-4). Judge McMahon also denied Plaintiff's Rule 52(b) motion. (ECF 8.) By mandate dated August 23, 2021, the United States Court of Appeals for the Second Circuit determined *sua sponte* that it lacked jurisdiction over Plaintiff's appeal. (ECF 21.) This action was reassigned to my docket on March 18, 2021.

Now pending before this Court are the remaining three motions requesting reconsideration of the order dismissing this case, all filed on December 1, 2020, that the Court did not have jurisdiction to consider. (ECF 10-12.) Also pending before this Court are four

additional motions, namely: (1) a Rule 60(b) motion to set aside and vacate the January 4, 2021 order, reopening this action (ECF 16); (2) a Rule 52(b) motion, requesting fact finding and conclusions of law (ECF 14); and (3) two motions seeking the appointment of *pro bono* counsel and a guardian *ad litem* (ECF 15, 19).

The Court denies as moot Plaintiff's motions for reconsideration; denies as frivolous the Rule 60(b) motion seeking reconsideration of the order reopening this action and the Rule 52(b) motion; and denies without prejudice Plaintiff's motions seeking the appointment of *pro bono* counsel and a guardian *ad litem*.

#### **B. Order to show cause**

The Court originally dismissed this action without prejudice, under § 1915(g), because Plaintiff is barred from filing any action *in forma pauperis* (IFP) while he is a prisoner. *See Davis v. State of North Carolina*, No. 16-CV-0549 (E.D. Va. Oct. 4, 2016) (finding that Plaintiff had filed three actions while a prisoner that were dismissed for failure to state a claim).<sup>1</sup> Subsequent to this order of dismissal, Plaintiff filed motions suggesting that he believes he is not barred under § 1915(g). In an abundance of caution, the Court vacated its order of dismissal.

The Court now directs Plaintiff to show cause why the action should not be dismissed under § 1915(g), in light of the order issued in *Davis v. State of North Carolina*, finding that Plaintiff has filed three or more cases while he was a prisoner that were dismissed for failure to state a claim. Plaintiff should complete the attached declaration form with docket number 20-CV-

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<sup>1</sup> The Eastern District of Virginia dismissed the 16-CV-0549 action for failure to state a claim. The three prior cases dismissed for failure to state a claim included: *Davis v. Unknown*, No. 2:16-CV-0548 (E.D. Va. Oct. 4, 2016); *Davis v. Scott*, 2:11-CV-0516 (E.D. Va. Sept. 29, 2011) (noting that Plaintiff had filed 22 other actions in the Eastern District of Virginia related to his losing custody of his child in 2007); *Davis v. North Carolina*, No. 2:11-CV-0500 (E.D. Va. Sept. 26, 2011).

4610 (LLS). No summons will issue at this time. If Plaintiff fails to comply with this order within 30 days of the date of this order, the Court will dismiss this action without prejudice under § 1915(g).

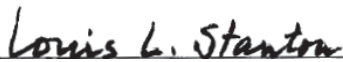
### CONCLUSION

The Court directs the Clerk of Court to mail a copy of this order to Plaintiff and note service on the docket.

The Court denies as moot Plaintiff's motions for reconsideration (ECF 10-12); denies as frivolous the Rule 60(b) motion seeking reconsideration of the order reopening this action (ECF 16) and the Rule 52(b) motion (ECF 14); and denies without prejudice Plaintiff's motions seeking the appointment of *pro bono* counsel and a guardian *ad litem* (ECF 15, 19).

SO ORDERED.

Dated: August 25, 2021  
New York, New York

  
\_\_\_\_\_  
Louis L. Stanton  
U.S.D.J.

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Write the first and last name of each plaintiff or  
petitioner.

Case No. \_\_\_\_\_ CV \_\_\_\_\_

-against-

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Write the first and last name of each defendant or  
respondent.

**DECLARATION**

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Briefly explain above the purpose of the declaration, for example, "in Opposition to Defendant's  
Motion for Summary Judgment," or "in Response to Order to Show Cause."

I, \_\_\_\_\_, declare under penalty of perjury that the  
following facts are true and correct:

In the space below, describe any facts that are relevant to the motion or that respond to a court  
order. You may also refer to and attach any relevant documents.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on its right side, suggesting it's resting on a surface.

Attach additional pages and documents if necessary.

Executed on (date)

Signature

Name

Prison Identification # (if incarcerated)

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Address

City

State

Zip Code

Telephone Number (if available)

E-mail Address (if available)